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Human rights situations that require the Council's attention

Joint written statement* submitted by the Nonviolent Radical Party, Transnational and Transparty, a non-governmental organization in general consultative status; the Women's Human Rights International Association and France Libertés: Fondation Danielle Mitterrand, non-governmental organizations in special consultative status; and International Educational Development, Inc. and Mouvement contre le racisme et pour l'amitié entre les peuples, non-governmental organizations on the roster

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[4 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Civil society urges UN to launch fact-finding mission to investigate Iran's 1988 massacre in order to end impunity and prevent the same fate for detained protesters today*

Following reports by the United Nations Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and the UN Secretary General to the General Assembly highlighting the 1988 massacre of political prisoners in the Islamic Republic of Iran, a civil society hearing was held in Geneva on 1 February 2018 to discuss the necessary steps for bringing an end to the impunity enjoyed by the perpetrators. In her report, Special Rapporteur Asma Jahangir stated that "families of the victims have the right to a remedy, which includes the right to an effective investigation of the facts and public disclosure of the truth; and the right to reparation. The Special Rapporteur therefore calls on the Government to ensure that a thorough and independent investigation into these events is carried out."

The civil society hearing in Geneva heard witnesses and legal experts and offered an adjudication of the 1988 massacre of political prisoners in the Islamic Republic of Iran. The hearing was the first of its kind by NGOs in Geneva, and it urged immediate action by the UN to address the current wave of mass arrests and killings in Iranian jails following the recent anti-government protests.

International civil society and NGOs urged the UN High Commissioner for Human Rights to establish a fact-finding mission to investigate the months-long 1988 massacre during which Iran's government executed an estimated 30,000 political prisoners, mostly activists of the People's Mojahedin Organization of Iran (PMOI / MEK).

During the Geneva hearing, former UN judges, senior human rights officials and human rights experts and advocates stressed that such an inquiry, long overdue, is now especially crucial in light of the arrest of thousands of peaceful anti-government protesters at the turn of the year, after which numerous protesters died while in authorities' custody. Many more are at risk of a similar fate.

Eleven detainees so far have been identified by name as having died as a result of torture in Iran's prisons. In an act of propaganda, authorities have attempted to downplay some of these deaths by insisting that they actually were instances of suicide.

"Deceased prisoners have died of guilty conscience," Hassan Nowroozi, the spokesman for the Iranian Parliament's Legal and Judicial Committee, was quoted as saying. "The deaths of many of these people in prison may be related to regretting their acts. They realized the ugliness of their acts, and maybe that led to their suicide in prison."

Such language is chillingly familiar. In declaring the people's demands for democracy to be "ugly," figures such as Nowroozi recall attention to the sentiment that all enemies of the authorities are enemies of God — a sentiment that was codified into law following a fatwa issued in 1988 by Supreme Leader Khomeini. That religious pronouncement led inexorably to the creation of death commissions in various cities throughout Iran, where they were tasked with eliminating all political prisoners who remained loyal to their beliefs.

In the first session of the civil society hearing, Kirsty Brimelow QC, Chair of the Bar Human Rights Committee of England and Wales, presented an indictment. In the course of the hearing she introduced 15 witnesses who were either survivors of the 1988 massacre or families of the victims. In another session, four distinguished experts; Jean Ziegler, vice president of the Advisory Committee to the UN Human Rights Council; Juan Garcés, chief lawyer in the Spanish case against General Pinochet; Eric Sottas, former Secretary-General of the World Organization Against Torture (OMCT); and Tahar Boumedra, former chief of the Human Rights Office of the UN Assistance Mission for Iraq; discussed the nature of the crimes and the UN's obligations regarding the 1988 massacre. In the final session, Geoffrey Robertson QC, head of Doughty Street Chambers in the UK and former appeal judge at the UN Special Court for Sierra Leone; and Professor Eric David, Professor emeritus of international law at the Université libre de Bruxelles; acting as adjudicators, offered their opinions based on the evidence and made recommendations to the UN.

Participants in the hearing expressed a consensus that the 1988 massacre clearly constitutes a crime against humanity. They stressed that the international community and in particular the UN are obliged to take all necessary measures to end impunity in this case and they warned that failure to hold Tehran accountable would simply emboldened the Iranian authorities to continue their gross human rights violations. According to the indictment presented at the hearing, many of the leading perpetrators of the 1988 massacre remain alive today and even continue to hold positions of prominence in Iranian politics and law.

Kirsty Brimelow summed up her presentation after hearing all the witnesses, establishing beyond any doubt that, based on undeniable facts and evidence including official acknowledgements, a crime against humanity had occurred in 1988 and that it has continued to date. She named several perpetrators of the 1988 massacre currently holding key judicial positions, including Justice Minister Alireza Avaie and Advisor to the Head of the Judiciary Mostafa Pour-Mohammadi. She warned that if this impunity is not ended, the lives of those arrested at the beginning of 2018 would be at serious risk.

Jean Ziegler, Eric David and Tahar Boumedra, citing Article 7 of the Rome Statute, stated that the 1988 mass killings in the Islamic Republic of Iran constitute crimes against humanity. Both Geoffrey Robertson and Tahar Boumedra made the case that it is well established that the Iranian authorities will not and cannot launch an independent investigation into this massacre, and thus, the relevant Special Procedures ought to individually and collectively call on the UN to establish an impartial commission of inquiry.

The testimonies of the 15 witnesses provided solid facts and undeniable evidence of the extent of the crimes committed and the suffering of the survivors and the families of the victims. One witness explained that 14 members of her family had been executed in the Islamic Republic of Iran for their belief, five of them during the 1988 massacre. Three of the survivors explained that preparation for the mass executions started several months before the massacre itself. Geoffrey Robertson in his conclusion discussed in detail why there could be no justification for the massacre, which he said was more tragic than the Death Marches of Prisoners of War during World War II in Japan and the mass killings of Srebrenica.

Witnesses also described the ongoing suffering of the families of those who were executed. "By killing every other member of a family, they killed the whole family and made them suffer for the rest of their lives," one witness said.

Conclusion and recommendation

Thirty years after the 1988 mass extra-legal executions of political prisoners in Iran, we believe that until the full truth is unveiled and the perpetrators are held to account for their crimes, there will be no incentive for the government of Iran to change its policy on human rights. We therefore urge the UN High Commissioner for Human Rights to set up an independent fact-finding mission to investigate the 1988 massacre to reveal the truth, hold the perpetrators to account and seek justice, reparation and guarantees of non-recurrence.

Background information

UN Special Rapporteur's position on the 1988 massacre in Iran

The report (A/72/322) by Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Asma Jahangir, transmitted to the General Assembly by Secretary General António Guterres on 14 August 2017, stated:

"73. Between July and August 1988, thousands of political prisoners, men, women and teen-agers, were reportedly executed pursuant to a fatwa issued by the then Supreme Leader, Ayatollah Khomeini. A three-man commission was reportedly created with a view to determining who should be executed. The bodies of the victims were reportedly buried in unmarked graves and their families never informed of their whereabouts. These events, known as the 1988 massacres, have never been officially acknowledged. In January 1989, the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran, Reynaldo Galindo Pohl, expressed concern over the "global denial" of the executions and called on Iranian authorities to conduct an investigation. Such an investigation has yet to be undertaken.

"74. In August 2016, an audio recording of a meeting held in 1988 between high-level State officials and clerics was published. The recording revealed the names of the officials who had carried out and defended the executions, including the current Minister of Justice, a current high court judge, and the head of one of the largest religious foundations in the country and candidate in the May presidential elections. Following the publication of the audio recording, some clerical authorities and the chief of the judiciary admitted that the executions had taken place and, in some instances, defended them."

The SR-Iran's report concluded:

"109. Over the years, a high number of reports have been issued about the 1988 massacres. If the number of persons who disappeared and were executed can be disputed, overwhelming evidence shows that thousands of persons were summarily killed. Recently, these killings have been acknowledged by some at the highest levels of the State. The families of the victims have a right to know the truth about these events and the fate of their loved ones without risking reprisal. They have the right to a remedy, which includes the right to an effective investigation of the facts and public disclosure of the truth; and the right to reparation. The Special Rapporteur therefore calls on the Government to ensure that a thorough and independent investigation into these events is carried out."

UN Secretary General's report

A report by Secretary General António Guterres to the General Assembly, (A/72/562), about the "Situation of human rights in the Islamic Republic of Iran", dated 31 October 2017, stated:

"55. During the reporting period, the Office of the United Nations High Commissioner for Human Rights (OHCHR) continued to receive a large number of complaints from families of the victims of executions which took place in 1988. In a joint statement issued in March, 20 human rights organizations called on the authorities to stop the harassment, intimidation and prosecution of human rights defenders seeking truth and justice on behalf of individuals who were summarily executed or forcibly disappeared during the 1980s and of their families."

The civil society hearing was organized by Justice for the Victims of the 1988 Massacre in Iran (JVMI); France Libertés - Fondation Danielle Mitterrand; Nonviolent Radical Party, Transnational and Transparty; Women's Human Rights International Association (WHRIA); and International Educational Development (IED), the latter four of which have Consultative Status at the UN.

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*Justice for Victims of 1988 Massacre in Iran NGO without consultative status, also shares the views expressed in this statement.